

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

October 20, 2003

CALL TO PODIUM:

**Trudy Schwarz, Community
Development Director**

RESPONSIBLE STAFF:

**Trudy Schwarz, Community
Development Director
Patricia Patula, Planner**

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
x	Public Hearing Joint
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	NA
Advertised	10-01-2003
	10-15-2003
Hearing Date	10-20-2003
Record Held Open	
Policy Discussion	

TITLE:**JOINT PUBLIC HEARING**

Z-295(O) Requests rezoning of 15,439 square feet of land, currently known as Part of Lot 12 and Part of Lot 13, Block I, Russell and Brookes Addition, located at 12 Russell Avenue, in the City of Gaithersburg, from the existing R-90 (Medium Density Residential) Zone to the CBD (Central Business District) Zone, under the Optional Method of Rezoning, in accordance with Section 24-196 (map amendments) and Section 24-198 (optional method) of the City Code.

SUPPORTING BACKGROUND:

The applicants, Matthew and Maria Glinsman, request the rezoning of the property located at 12 Russell Avenue from R-90 to CBD. The applicants have also selected the optional method of rezoning (Section 24-198 of the City Ordinance) which requires the submission of a schematic development plan as part of the rezoning application and a proposed covenant restricting the use.

The property includes Part of Lot 12 and Part of Lot 13 in Block One of the Russell and Brookes Addition, as well as 2,191 square feet of the recently abandoned alley (AB-56).

The applicants propose to use the existing house for professional offices and plan to build a secondary structure in a "carriage house" style in the rear which will serve initially as a residence and eventually as additional office space.

The property is a contributing resource to the Brookes, Russell, Walker Historic District, and the schematic development plan has received preliminary reviews and support by the Historic Preservation Advisory Committee. The Historic District Commission recently granted a historic area work permit for the demolition of the garage on the property as well as some exterior changes to the house, such as accessibility requirements, new windows and roofing (HAWP- 87).

Attachments:

Index of Memoranda and exhibits.

DESIRED OUTCOME:

October 30 – Close record Planning Commission (10 days)

November 5 –Planning Commission Recommendation

November 6 – Close record City Council (17 days)

November 17 - Policy discussion City Council

Mayor and City Council
And Planning Commission
October 20, 2003

INDEX OF MEMORANDA
Z-295 (O)

No. Exhibit

- 1) Application for Amendment to the Zoning Map
- 2) Statement Demonstrating a Change in Neighborhood
- 3) Adjoining and Adjacent Property Owners
- 4) Declaration of Covenants
- 5) Map showing surrounding zoning
- 6) Tax Assessment Ownership Record Lot P12
- 7) Tax Assessment Ownership Record Lot P13
- 8) Ordinance to Abandon Alley at 12 Russell Avenue
- 9) Excerpt Zoning Ordinance Section 24-198 Optional Method
- 10) Excerpt Zoning Ordinance Section 24-160F.1 CBD Zone Purpose
- 11) Letter to Gazette requesting legal advertisement of Joint Public Hearing in the October 1 and 15, 2003 issues
- 12) Notice of Joint Public Hearing sent October 3, 2003, to required parties
- 13) Letter dated October 14, 2003 from James Clifford to Planning Commission Chairman Blanche Keller regarding a waiver for the driveway width and parking spaces
- 14) Schematic Development Plan

APPLICATION FOR AMENDMENT TO THE ZONING MAP

In accordance with Chapter 24, Article VIII of the City Code

 Application No. Z- 295(0)
 Filing Date 9-23-03
 Fee \$800.00
PC Hearing Oct. 20 '03

PC Recommendation _____

M & CC Hearing Oct. 20 '03

Decision _____

Date _____

 SUBJECT PROPERTY 12 Russell Avenue, Gaithersburg, MD
 Address (if none, the location with respect to streets) 12 Russell Avenue, Gaithersburg, MD
 Lot PT 12 & PT 13 Block 1 Subdivision Russell and Brookes Addition to Gaithersburg

REQUESTED CHANGE

From the existing R-90 Zone to the CBD Zone☒ Optional Method of Development (check if applicable)

*Note: The optional method is excluded from the RA Zone and the MXD Zone.

 APPLICANT(S) Matthew & Maria Glinnsman
 Address 21508 Manor View Circle, Germantown, MD 20876 Telephone 301-548-0550

 OWNER(S) Matthew & Maria Glinnsman
 Address 21508 Manor View Circle, Germantown, MD 20876 Telephone 301-548-0550

TAX ASSESSMENT INFORMATION

As shown on the tax docket of the State Department of Assessment and Taxation, Montgomery County, or on the Montgomery County, Maryland Real Estate Tax Bill.

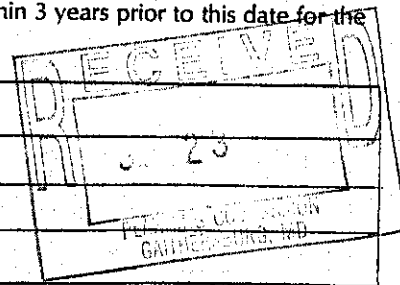
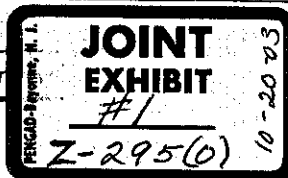
DISTRICT SUBDIVISION	ACCOUNT NUMBER	LOT	BLOCK	ACRES/FEET	SUBDIVISION OR TRACT NAME
9 -	00843182	PT 12 & 13	1	15,439	Russell and Brookes Addition to Gaithersburg
9 -					
9 -					
9 -					
9 -					
9 -					

ZONING HISTORY

List below the application numbers, date of filing, and actions taken on all applications filed within 3 years prior to this date for the reclassification of the whole or any part of the land above described.

APPLICATION #	DATE FILED	ACTION TAKEN
None		

continued on



SUBMISSION REQUIREMENTS

- Map or plat prepared by registered surveyor or engineer showing land and existing buildings for which the map amendment is sought, the bordering properties, streets and street names, lot and block designations, north arrow and key map, age and location of existing buildings, property size in acres/square feet. The area which is the subject of the application should be outlined in red. (10 copies)
- Legal metes and bounds of property
- Fee (see separate schedule)
- List of names and addresses of all property owners within 200 feet of any boundary of subject property
- Statement demonstrating a change in the neighborhood or a mistake in the Master Plan

If Optional Method submit also:

- Schematic Development Plan (which needs to include):
 - Uses of all buildings and structures
 - Location, height, dimensions of all buildings, structures, and parking areas, dimensions of all buildings
 - Location of points of access to site
 - Existing topography (contours of not more than 5-foot intervals) 100-year flood plains, and other natural features
 - Utility Easements
 - Natural Resource Inventory (See Environmental Standards)
- Proposed Covenant
- Statements:

Applicant proposes to limit uses on the subject parcel to the following: Professional Office Space
and/or Residential Use

Applicant has submitted Schematic Development Plan which imposes the following limitations of development standards:
See Attached Schematic Development Plan

ADDITIONAL INFORMATION

Within five (5) days after filing the application, the applicant shall erect appropriate signs, posting notice of the requested zoning map amendment public hearing (per Section 24-196e of the City Code). The signs are made available to the applicant from the City staff and must remain posted until thirty (30) days after the decision on the application.

I have read and complied with the submission requirements and affirm that all statements contained herein are true and correct.

Applicant's Signature Manat Amin Date 9/22/03
Owner's Signature Manat Amin Date 9/22/03

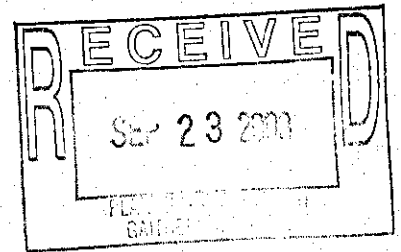
STATEMENT DEMONSTRATING A CHANGE IN NEIGHBORHOOD

What area reasonably constituted the "Neighborhood" of the subject property?

For the purposes of this rezoning, "Neighborhood" shall be defined as follows:

All those lots on Russell Avenue from Diamond Avenue to Brookes Avenue and all those properties that adjoin those lots, both inside and outside the historic district, including both those properties within the CBD zone and those properties in the R-90 zone. The addresses of these lots are:

16 Russell Avenue
11 Russell Avenue
9 Russell Avenue
8 Russell Avenue
7 Russell Avenue
3 Russell Avenue
20 East Diamond Avenue
106 East Diamond Avenue
21 Brookes Avenue
19 Brookes Avenue
101 Brookes Avenue
103 Brookes Avenue



What changes which have occurred in that neighborhood since the original or last comprehensive zoning affecting the neighborhood?

Since the last comprehensive zoning of the subject neighborhood, all those houses fronting on Russell Avenue that are historic and within the CBD Zone have converted from residential to office use. These properties include 7, 9 and 11 Russell Avenue. The CBD Zone has encouraged the renovation of these historic homes. 8 Russell Avenue is a piggy back condominium, with first floor commercial, which predates the present CBD Zone. Russell Avenue has become the main connector road between the commercial area around the Lake Forest Mall and the Commercial area on Diamond Avenue in Olde Towne Gaithersburg.

How have these changes resulted in a change in the character of the neighborhood which would justify reclassification to the category requested?

With the increased traffic on Russell Avenue, and the success of the CBD zone on the adjoining properties as a tool to drive compatible historic renovations, the character of the neighborhood had been altered sufficiently to justify bringing the subject property into the CBD Zone in order for the neighborhood to realize the same improvements experienced at 7, 9 and 11 Russell Avenue.



ADJOINING AND ADJACENT PROPERTY OWNERS

Verizon Communications
c/o CB Richard Ellis
1310 North Courthouse Road
Ninth Floor
Arlington, VA 22201

Mary Covell
3 Russell Avenue
Gaithersburg, MD 20877

Paul and Candace Niesen
7 Russell Avenue
Gaithersburg, MD 20877

Evelyn Adler
8 Russell Avenue
Gaithersburg, MD 20877

Richard Allen
8 Russell Avenue
Gaithersburg, MD 20877

Arpima, LLC
8 Russell Avenue
Gaithersburg, MD 20877

Antonin Baccanari
8 Russell Avenue
Gaithersburg, MD 20877

Kirk Bauer
8 Russell Avenue
Gaithersburg, MD 20877

Damaris Bonilla
8 Russell Avenue
Gaithersburg, MD 20877

Kenneth Busche
8 Russell Avenue
Gaithersburg, MD 20877



Vikien Chau
8 Russell Avenue
Gaithersburg, MD 20877

Dana Chen
8 Russell Avenue
Gaithersburg, MD 20877

Jozef Chilinski
8 Russell Avenue
Gaithersburg, MD 20877

Eshter Comforti
8 Russell Avenue
Gaithersburg, MD 20877

Charlotte Cooke
8 Russell Avenue
Gaithersburg, MD 20877

Herbert Cullis
8 Russell Avenue
Gaithersburg, MD 20877

Gary Dehne
8 Russell Avenue
Gaithersburg, MD 20877

Mary Demare
8 Russell Avenue
Gaithersburg, MD 20877

Suzanne Des Marais
8 Russell Avenue
Gaithersburg, MD 20877

Thomas Diehl
8 Russell Avenue
Gaithersburg, MD 20877

Katheen Donnelly
8 Russell Avenue
Gaithersburg, MD 20877

James Elliott
8 Russell Avenue
Gaithersburg, MD 20877

Katherine English
8 Russell Avenue
Gaithersburg, MD 20877

Figuerdo & Nedro Partnership
8 Russell Avenue
Gaithersburg, MD 20877

Steven Fulkrod
8 Russell Avenue
Gaithersburg, MD 20877

Nimal Gunatilleke
8 Russell Avenue
Gaithersburg, MD 20877

Russell Kennedy
8 Russell Avenue
Gaithersburg, MD 20877

John Lee
8 Russell Avenue
Gaithersburg, MD 20877

Paul Leon
8 Russell Avenue
Gaithersburg, MD 20877

Joseph Lin
8 Russell Avenue
Gaithersburg, MD 20877

Donald Linthicum
8 Russell Avenue
Gaithersburg, MD 20877

Mai Luu
8 Russell Avenue
Gaithersburg, MD 20877

Regina Martin
8 Russell Avenue
Gaithersburg, MD 20877

Alan Nichols
8 Russell Avenue
Gaithersburg, MD 20877

Randolph Philipp
8 Russell Avenue
Gaithersburg, MD 20877

Perlita Powers
8 Russell Avenue
Gaithersburg, MD 20877

Justina Smith
8 Russell Avenue
Gaithersburg, MD 20877

Joanne Stevens
8 Russell Avenue
Gaithersburg, MD 20877

Judith Warner
8 Russell Avenue
Gaithersburg, MD 20877

Suli Yi
8 Russell Avenue
Gaithersburg, MD 20877

Dee Young
8 Russell Avenue
Gaithersburg, MD 20877

Kellye Young
8 Russell Avenue
Gaithersburg, MD 20877

P. Uthasastrkosol
8 Russell Avenue
Gaithersburg, MD 20877

Arthur McAuliffe
9 Russell Avenue
Gaithersburg, MD 20877

O'Neill Land LLC
11 Russell Avenue
Gaithersburg, MD 20877

Freeman Sharp
16 Russell Avenue
Gaithersburg, MD 20877

Mr. and Mrs. Francis P. Corrigan
21 Brookes Avenue
Gaithersburg, MD 20877-2701

Mr. and Mrs. M. A. Wiencek, Jr.
19 Brookes Avenue
Gaithersburg, MD 20877

Mark Alexander
101 Brookes Avenue
Gaithersburg, MD 20877

Charles Sturrock
103 Brookes Avenue
Gaithersburg, MD 20877

Lee Wells
20 East Diamond Avenue
Gaithersburg, MD 20877

Shen-Tien Huang
106 East Diamond Avenue
Gaithersburg, MD 20877

DECLARATION OF COVENANTS

THIS DECLARATION OF COVENANTS made this _____ day of _____, 2003 by MATTHEW GLINSMANN AND MARIA GLINSMANN, hereinafter collectively referred to as "Declarant".

WHEREAS, Declarant is the owner of a parcel of land located in the Ninth Election District of Montgomery County, Maryland, containing 15,439 square feet of land, (hereinafter referred to as "Property") more particularly described in Schedule "A" attached hereto; and

WHEREAS, the Property is the subject of a local zoning map amendment application filed by Declarant seeking to rezone the subject property to the CBD zoning classification, said application having been designed Case No. Z-_____ ; and

WHEREAS, Section 24-198 of the Gaithersburg City Code (Zoning Ordinance) provides an optional method for the filing of a local zoning map amendment in which the applicant may restrict development standards, or limit uses to less than that permitted in the requested zone; and

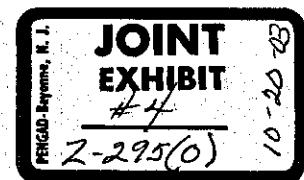
WHEREAS, Declarant has filed with Zoning Application No. Z-_____ a Schematic Development Plan restricting development standards and limiting uses to less than that permitted in the requested zone; and

WHEREAS, Section 24-198 of Gaithersburg City Code requires the filing of a Covenant confirming the restrictions and limitations set forth in the Schematic Development Plan.

NOW, THEREFORE, Declarant hereby declares and covenants that the property that is the subject of Zoning Application No. Z-_____ will be developed and used in the following manner:

I. Restrictions.

A. The use of building on the Property shall be restricted to residential and/or



professional office uses exclusively.

B. The type of buildings to be constructed on the Property will be a "carriage house" residential dwelling and/or professional office unit, which shall be constructed at the rear of the Property under the regulations for the Historic District of the City of Gaithersburg.

C. The existing building on the front of the Property shall be restored and converted to a professional office space unit under the regulations for the Historic District of the City of Gaithersburg

D. The number of buildings shall not exceed one (1) new residential dwelling and/or professional office unit and one (1) existing residential and /or professional office space unit.

E. Open Space - There are no Open Space Requirements.

F. Common Use Area - None.

G. Parking - There shall be fourteen (14) parking spaces, of which ten (10) spaces are shown as off street spaces and four (4) as on street frontage spaces.

H. Height Restrictions. The height of the existing building is two (2) stories and the height of the new building shall not exceed two (2) stories.

I. All restrictions set forth herein are based on the Zoning Ordinance standards as they appear in Chapter 24 of the Gaithersburg City Code, as amended, as it exists as of the date of execution of this Declaration of Covenants. In the future, if said standards are amended, the standards in existence on this date shall be applicable.

II. This Declaration of Covenants shall become effective upon final approval of the subject zoning application, and shall be of no force and effect unless the requested zoning is approved.

III. The restricted development standards set forth herein shall run with the land and shall

be binding upon Declarants, its successors and assigns, in perpetuity, unless (i) the Schematic Development Plan is amended as provided by law, or (ii) any part of the subject property is rezoned, in which event this Covenant shall cease to be effective and shall terminate.

IV. This Declaration of Covenants inures to the benefit of the City of Gaithersburg, Maryland, and the covenants herein may be enforced only by the City of Gaithersburg, Maryland.

IN WITNESS WHEREOF, the hand of the undersigned as of the date set forth above.

DECLARANT:

MATTHEW GLINSMANN

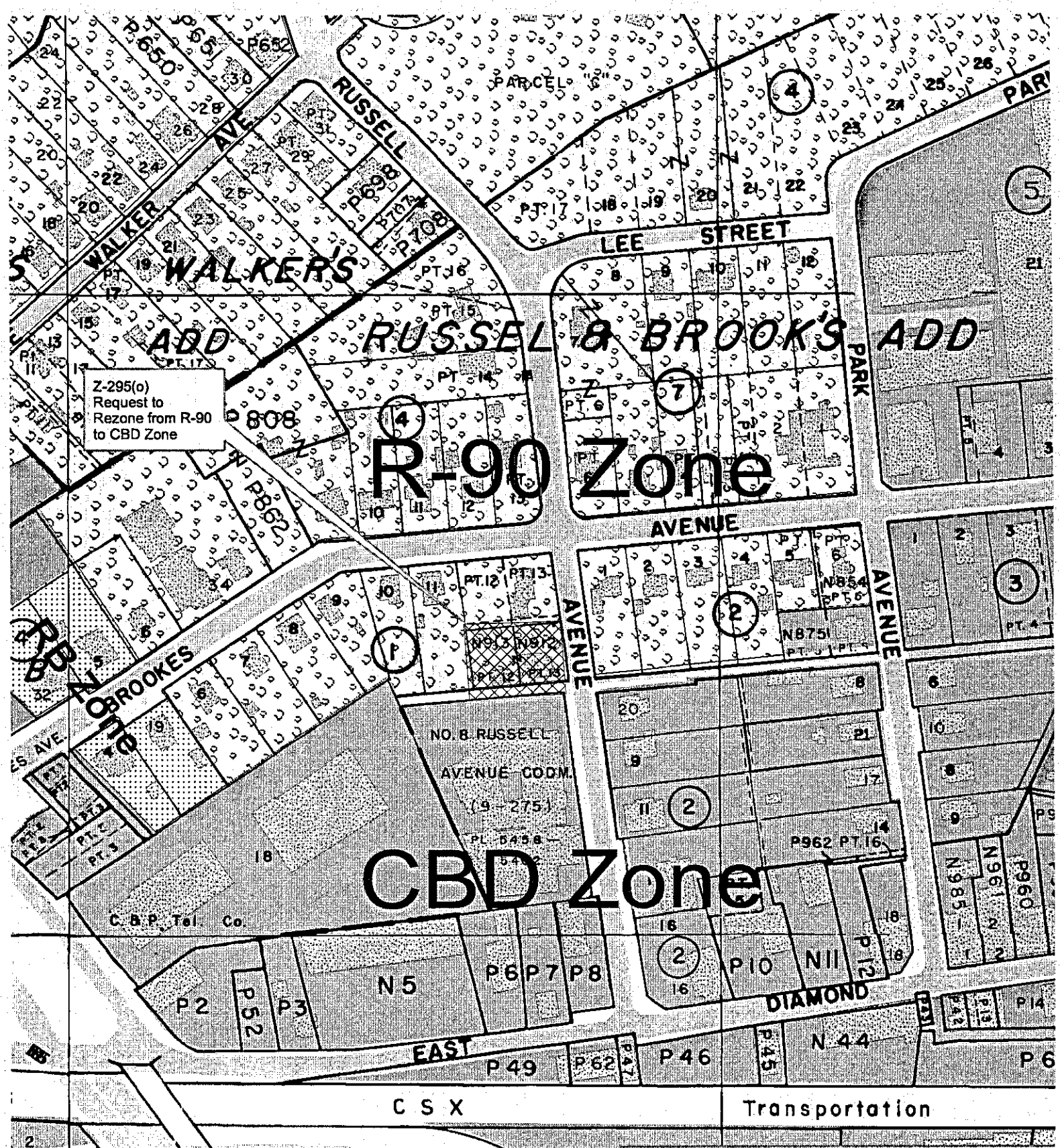
MARIA GLINSMANN

STATE OF MARYLAND
COUNTY OF MONTGOMERY: to wit

On this _____ day of _____, 2003 before me, a notary public in and for the state and county aforesaid, personally appeared MATTHEW GLINSMANN AND MARIA GLINSMANN known to me or satisfactorily proven to be, the persons whose names are subscribed to this Declaration of Covenants, and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and notarial seal.

Notary Public: _____
My Commission Expires: _____



CBD Zone

R-90 Zone

Z-295(o)
Request to
Rezone from R-90
to CBD Zone

**Z-295(o)
Surrounding
Zoning**

**JOINT
EXHIBIT
#5
Z-295(0)**
10-20-03

Gaithersburg
Lumber & Supply
Co. Inc.

Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation
MONTGOMERY COUNTY
Real Property Data Search

Go Back
View Map
New Search

Account Identifier: District - 09 Account Number - 00843171

Owner Information

Owner Name: GLINSMANN, MATTHEW & MARIA

Use: RESIDENTIAL
Principal Residence: NO

Mailing Address: 12 RUSSELL AVE
GAITHERSBURG MD 20877-2912

Deed Reference: 1) /23350/ 743
2)

Location & Structure Information

Premises Address
RUSSELL AVE
GAITHERSBURG 20877

Zoning
R90

Legal Description
RUSSELL & BROOKES AD
D TO GAITHERSBURG

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
FT52		N913		215		1	P12	82	Plat Ref:
Special Tax Areas			Town	GAITHERSBURG					
			Ad Valorem						
			Tax Class	49					
Primary Structure Built			Enclosed Area		Property Land Area		County Use		
0000					6,624.00 SF		910		
Stories		Basement		Type		Exterior			

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	3,310	3,310		
Improvements:	0	0		
Total:	3,310	3,310	3,310	3,310
Preferential Land:	0	0	0	0

Transfer Information

Seller: BURDETTE, EARL L ET AL	Date: 03/21/2003	Price: \$300,000
Type: MULT ACCTS ARMS-LENGTH	Deed1: /23350/ 743	Deed2:
Seller: MARJORIE N BURDETTE	Date: 12/29/1994	Price: \$0
Type: MULT ACCTS ARMS-LENGTH	Deed1: /13175/ 234	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

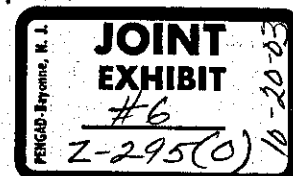
Exemption Information

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *



Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation
MONTGOMERY COUNTY
Real Property Data Search

Go Back
View Map
New Search

Account Identifier: District - 09 Account Number - 00843182

Owner Information

Owner Name: GLINSMANN, MATTHEW & MARIA Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 12 RUSSELL AVE Deed Reference: 1) /23350/ 743
GAITHERSBURG MD 20877-2912 2)

Location & Structure Information

Premises Address: 12 RUSSELL AVE Zoning: R90 Legal Description: RUSSELL & BROOKES AD
GAITHERSBURG 20877-2912 D TO GAITHERSBURG

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
FT52		N912		215		1	P13	82	Plat Ref:
Special Tax Areas			Town	GAITHERSBURG					
			Ad Valorem						
			Tax Class	49					
Primary Structure Built			Enclosed Area		Property Land Area			County Use	
1906			1,984 SF		6,624.00 SF			111	
Stories		Basement		Type				Exterior	
2		YES		STANDARD UNIT				STUCCO	

Value Information

	Base Value	Value As Of	Phase-In Assessments	
		01/01/2003	As Of	As Of
			07/01/2003	07/01/2004
Land:	53,000	80,000		
Improvements:	101,150	126,400		
Total:	154,150	206,400	171,566	188,982
Preferential Land:	0	0	0	0

Transfer Information

Seller: BURDETTE, EARL L ET AL Date: 03/21/2003 Price: \$300,000
Type: MULT ACCTS ARMS-LENGTH Deed1: /23350/ 743 Deed2:
Seller: MARJORIE N BURDETTE Date: 12/29/1994 Price: \$0
Type: MULT ACCTS ARMS-LENGTH Deed1: /13175/ 234 Deed2:
Seller: Date: Price:
Type: Deed1: Deed2:

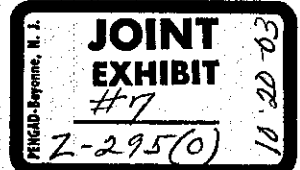
Exemption Information

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *



Ordinance No. 0-9-03

AN ORDINANCE TO ABANDON, RELEASE, AND VACATE
APPROXIMATELY 3,927 SQUARE FEET OF LAND
PREVIOUSLY DEDICATED FOR A 15-FOOT WIDE ALLEY
LOCATED ADJACENT TO LOTS 10-13 AND PARCEL A, BLOCK 1,
OFF RUSSELL AVENUE, BETWEEN ITS INTERSECTION
WITH EAST DIAMOND AND BROOKES AVENUES,
IN THE RUSSELL AND BROOKES ADDITION,
CITY OF GAITHERSBURG, MONTGOMERY COUNTY, MARYLAND

ABANDONMENT AB-56

WHEREAS, the applicants, Clifford, Debelius, Crawford, Bonifant & Fitzpatrick, Chtd., for Matthew & Maria Glinsmann, Francis & W. Corrigan, and Mary & M. Wiencek, Jr., as proper parties to initiate this abandonment, applied pursuant to Article III of Chapter 19 of the City of Gaithersburg Code for the abandonment of a portion of property dedicated to public use as reflected in Plat Book B as Plat Number 40 recorded among the Montgomery County Land Records; and

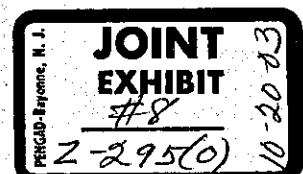
WHEREAS, the area of abandonment is a 15-foot wide alley lying adjacent to Lots 10 through 13 and Parcel A, Block 1, traversing in an east-west direction from the rear of Lot 18, Block 1, to Russell Avenue, between its intersection with East Diamond and Brookes Avenues, in the Russell and Brookes Addition to Gaithersburg; and

WHEREAS the alley to be abandoned is described herein by bearings and distances given in Exhibit "A," attached hereto and made a part hereof by this reference, and being said parcel of land as shown on a Map of Russell & Brookes Addition to Gaithersburg recorded in Plat Book B at Plat 40 among the land records of Montgomery County, Maryland, and being more particularly described as follows:

Description for part of a 15 foot wide alley adjacent to Lots 10 through 13, Block 1 as shown on the Map of Russell & Brookes Addition to Gaithersburg, recorded in Plant Book B at Plat 40 and Parcel A, Block 1 as shown on a plat of Russell & Brookes Addition To Gaithersburg recorded in Plat Book 135 at Plat Number 15646 among the land records of Montgomery County, Maryland and being more particularly described as follows:

Beginning for the same at the northeast corner of the aforementioned Parcel A Block 1 also being west right of way line of Russell Avenue and running thence with the north line of said lot, also being the south line of an alley (15 feet wide) shown there, to the northwest corner of said lot and as eastward extension thereof

N. 87°44' 00"W – 259.61 feet to intersect the east line of Lot 18, Block 1 of Russell & Brookes Addition as shown on a plat recorded in Plat Book 96 at Plat 10591 among the aforementioned land records; thence with a part of said east line



N 13°49'50"W – 15.61 feet to the north line of said alley, thence with said north line also being the south line of Lots 10 through 13, Block 1 of the aforementioned Map of Russell & Brookes Addition To Gaithersburg, thence

S 87°44'00"E – 263.94 feet to the south east corner of Lot 13, Block 1 also being the west of right of way line of Russell Avenue, thence crossing alley said

S 02°16'00"W – 15.00 feet to the point of beginning containing 3,927 square feet of land more or less.

WHEREAS, the existing alley does not provide the sole means of ingress or egress to any property, is unpaved and the applicants each use the portion of the alley adjoining their property as if under their ownership and control, and the need for such right-of-way which was originally dedicated as part of an old alley system within the City of Gaithersburg has not been demonstrated to be in use by the general public for access purposes and has remained unimproved since its dedication; and

WHEREAS, the Mayor and City Council find that the existing right-of-way is no longer necessary for present or anticipated future vehicular, pedestrian, or other right-of-way use by the general public, and does not provide the sole means of ingress and egress to any property; and

WHEREAS, the Mayor and Council find that there are no existing easements necessary for present or future use; and

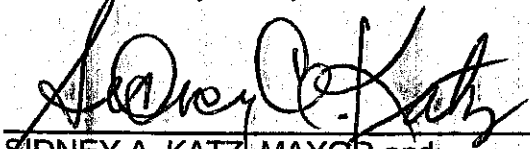
WHEREAS, a duly advertised public hearing on said application was held by the Mayor and City Council on August 18, 2003, and the Planning Commission has submitted on August 6, 2003, a recommendation supporting the abandonment to the Mayor and City Council; and

WHEREAS, the Mayor and City Council have received no request for further hearings on this matter, and there have been no further objections to the abandonment; and

WHEREAS, the Mayor and City Council have concluded that no further hearings are necessary to resolve this matter:

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of Gaithersburg, Maryland, that the above-described areas dedicated to public right-of-way use containing approximately 3,927 square feet of land are hereby abandoned, vacated, and released.

ADOPTED by the City Council of Gaithersburg this 2nd day of September, 2003.


SIDNEY A. KATZ, Mayor and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg this 2nd day of September, 2003.
APPROVED/~~VETOED~~ by the Mayor of the City of Gaithersburg this 2nd day of September, 2003.

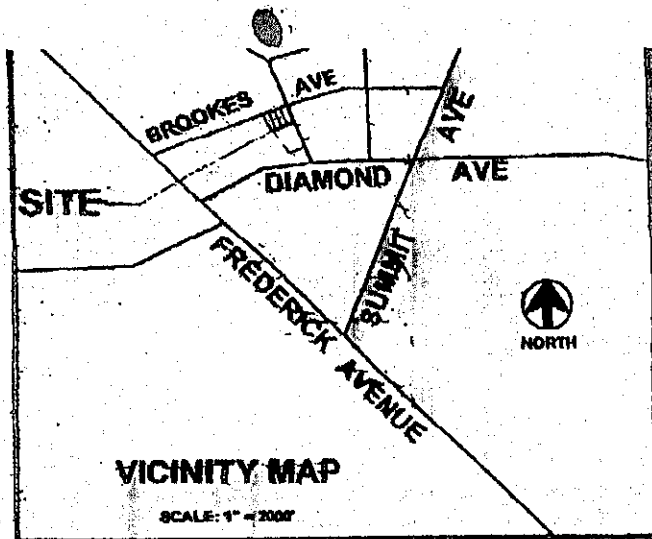


SIDNEY A. KATZ, MAYOR

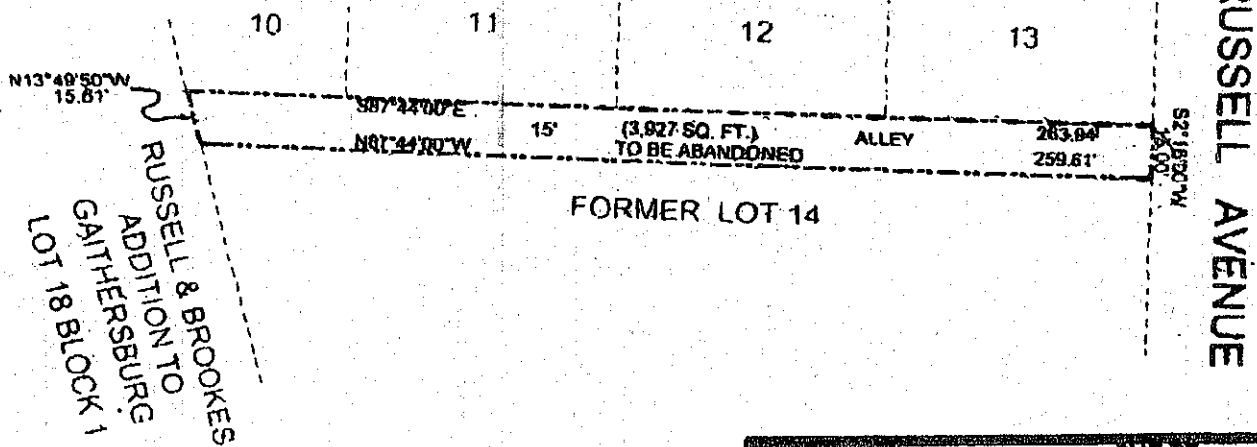
THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the 2nd day of September, 2003, and the same was approved/~~vetoed~~ by the Mayor of the City of Gaithersburg on the 2nd day of September, 2003. This ordinance will become effective on the 22nd day of September, 2003.



David B. Humpton, City Manager



RUSSELL & BROOKES
ADDITION TO
GAITHERSBURGH
P.B. "B" P.40



REFERENCE P.B. "B" PLAT 40	<p>PLAT OF PART OF 10' WIDE ALLEY BLOCK 1 RUSSELL & BROOKES ADDITION TO GAITHERSBURG ELECTION DISTRICT 18 MONTGOMERY COUNTY, MARYLAND SCALE 1" = 60' JUNE 18, 2003</p>
	<p>THOMAS A. MADDOX PROFESSIONAL LAND SURVEYOR 8938 SHADY GROVE COURT GAITHERSBURG, MARYLAND 20877 (301) 984-6804</p>

Exhibit
A
AB-56

Sec. 24-197. Requirements as to text and map amendments.

(a) *Referral to planning commission.* The city manager shall refer to the planning commission every application for amendment to the text or the zoning map.

(b) *Hearing.* The council and the planning commission shall conduct a public hearing on every proposal to amend the text of this chapter or the zoning map. The hearing before the council shall be subject to the notification procedures set forth in section 24-196(f). Such hearings may be continued, without further advertising or posting, to another time or another place, or both, if the time and place of the later hearing is announced at the advertised hearing.

(c) *Recommendation of planning commission.* The planning commission shall deliver to the city council as promptly as circumstances shall permit its recommendation with reference to each application to amend the text or the zoning map. In the event the planning commission shall fail to deliver such recommendation to the city council within thirty days following the hearing, the council may act upon such application without awaiting such recommendation.

(d) *Action of the council.* The council shall take action on the application within ninety days after the hearing. If the council shall fail to do so, the application shall be deemed to have been denied.

(e) *Notice to applicant and planning commission of action of council.* Notice of action taken by the council on any amendment to this chapter or to the zoning map shall, within seven (7) days thereof, be transmitted to the applicant and to the planning commission by the city manager.

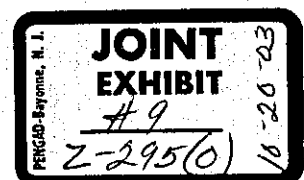
(f) *Fees.* Each application to amend the zoning map shall be accompanied by a fee in accordance with a schedule of fees established by the council by resolution.

(Ord. No. O-2-65, art. 4; Ord. No. O-13-78; Ord. No. O-16-82)

Sec. 24-198. Optional method of application for local map amendments.

(a) In addition to the other requirements contained in this article and notwithstanding subsection (c) of section 24-196 of this Code, an applicant for a local map amendment to any zoning district except the R-A Zone and the MXD Zone may select an optional method for such application by so indicating on the appropriate application form and submitting a schematic development plan as part of the rezoning application. The schematic development plan shall be for the purpose of limiting a development standard or standards to less than the maximum permitted in the requested zone and/or limiting the land use of the applicant's subject property to one or more of the permitted uses in the zone. Approval by the council shall not be for a manner of development or use other than that for which has been applied. A schematic development plan consisting of a drawing of appropriate scale submitted for the purpose of limiting a development standard or standards and/or land use shall include upon such plan, as a minimum, the following as applicable to the property:

- (1) The use or uses of all buildings and structures.
- (2) The location, height and approximate dimensions of all buildings and structures.



- (3) The location of points of access to the site.
- (4) The location of parking areas.
- (5) Existing topography, including:
 - a. Contour intervals of not more than five (5) feet;
 - b. An approved forest stand delineation and forest conservation plan, as defined in Chapter 22 and required by section 22-7 of this Code;
 - c. One hundred-year floodplains;
 - d. Other natural features, such as rock outcroppings and scenic views; and
 - e. Utility easements, if any.

(b) All applications filed under the optional method of application for local map amendment shall also include a proposed covenant, suitable for filing in the land records of the county, which shall indicate in specific language that the property which is the subject of the application is restricted in its use and/or development standards to the schematic development plan and any accompanying or qualifying text material submitted with such plan, as such plan may be approved or modified by the planning commission at the time of final site plan review. The covenant to be filed in the land records shall also indicate that such restrictions shall be in effect until such time as the property may be rezoned, at which time such restrictions shall be removed.

Upon approval of such application, the covenant shall be immediately recorded and certification thereof shall be submitted to the planning commission at the time of submission for final site plan review.

(c) The schematic development plan may be amended:

- (1) At any time before review and recommendation by the planning commission;
- (2) At any time after planning commission review and prior to council action by resubmission to the planning commission for further review and recommendation;
- (3) Subsequent to council action to approve as follows:
 - a. *Change in use involved.* By either the filing of a new application or resubmission to the planning commission for further evaluation, public hearing and recommendation to the council. The council shall approve or disapprove the recommendation of the planning commission, without the necessity of a public hearing, no later than forty-five (45) days after receipt of the commission's recommendation or may, on its own motion, extend such time limit.
 - b. *No change in use involved.* By submission to the planning commission for evaluation and approval in accordance with Article V of this chapter.

- c. *Changes other than to use.* By either the filing of a new application or resubmission to the planning commission for further evaluation, public hearing and recommendation to the council when the change is to proposed new development or modification to existing development which:
- (i) Increases the height of building or signage by ten (10) feet or more, or
 - (ii) Materially changes the orientation or siting of buildings, parking accessory uses, or
 - (iii) Increases nonresidential building floor area by more than ten (10) percent or five thousand (5,000) square feet whichever is greater, or
 - (iv) Increases by more than ten (10) percent or five (5) units the number of residential dwelling units whichever is greater, or
 - (v) Removes more than five (5) percent of area designated for conservation or other environmental preservation purposes.

The council shall hold only a courtesy review of the application, presented by the city planning staff, prior to action by the planning commission. The council shall either:

- (1) Find that the application has a minor effect and thereby direct the planning commission to make a final decision on the amendment in accordance with the procedure set forth above in subsection 24-198(3)b.; or
- (2) Direct that the amendment be referred to the planning commission for further evaluation, public hearing and recommendation. The council shall thereafter approve or disapprove the recommendation of the planning commission without the necessity of public hearing, no later than forty-five (45) days after receipt of the commission's recommendation or may on its own motion, extend such time limit.

(d) The final site plan as required by Article V of this chapter must be in conformance with the schematic development plan as approved by the council, with the exception of amendments or modifications not involving a change in use requested pursuant to subsection (c)(3) of this section.

(Ord. No. O-31-80; Ord. No. O-7-82; Ord. No. O-22-84, 11-19-84; Ord. No. O-19-90, 9-17-90; Ord. No. O-15-91, 7-1-91; Ord. No. O-23-92, 12-7-92; Ord. No. O-5-01, 3-19-01)

Sec. 24-199. Appeals.

Any person or persons aggrieved by any zoning action of the city council shall have the right of appeal, exercisable within thirty (30) days from the date of the decision or action, to the Circuit Court for Montgomery County, Maryland, and thereafter to the appellate courts of the state, in accordance with the Maryland Rules of Procedure governing administrative appeals. The filing of any appeal shall not stay the zoning action of the city council or authorize the issuance of any permit pending final resolution of the appeal.

(Ord. No. O-21-93, 12-20-93)

Editor's note—Ord. No. O-21-93, adopted Dec. 20, 1993, added a new § 24-199. Formerly, such section had been repealed by Ord. No. O-13-78.

- (3) They must have no direct entrances from the exterior and no signs on the exterior of the building.

(Ord. No. O-2-91, 2-19-91; Ord. No. O-6-94, 8-1-94)

Sec. 24-160E.4. Development procedures.

The development of property in the H-M Zone shall be subject to site plan approval, in accordance with the procedures established in Article V of Chapter 24 of this Code.

(Ord. No. O-2-91, 2-19-91)

Sec. 24-160E.5. Traditional Neighborhood Design (TND) option.

The Traditional Neighborhood Design (TND) option may be used as an alternate method of development, subject to compliance with the standards set forth in section 24-22.3 of Chapter 24 of this Code.

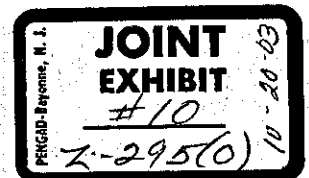
(Ord. No. O-3-99, 1-19-99)

DIVISION 21. CBD ZONE, CENTRAL BUSINESS DISTRICT

Sec. 24-160F.1. Purpose of zone.

The CBD Zone is intended to foster revitalization by promoting a desirable mix of commercial, office and residential uses, and giving incentives and providing public amenities, for attracting of a variety of leisure uses and activities to meet the needs and requirements of residents, workers, shoppers and visitors to Olde Towne, as well as to accomplish the following purposes:

- (a) To encourage development in accordance with the adopted master plan by permitting an increase in density and intensity of use, flexibility in use, and layout where development is in substantial conformity with the Downtown Plan for Olde Towne Gaithersburg (revised 1/8/96) and the site plan is approved by the city planning commission.
- (b) To permit a flexible response of development to the market, as well as to provide incentives for the development of a variety of land uses and activities in the central business district to meet the needs and requirements of residents, workers and shoppers.
- (c) To encourage designs which are in conformity with the architectural guidelines as adopted by the mayor and city council.
- (d) To promote the effective use of transit facilities in the central business district and pedestrian access thereto.
- (e) To promote improved pedestrian and vehicular circulation and parking facilities.
- (f) To assist in the development and redevelopment of adequate residential areas for people with a range of different incomes.



- (g) To encourage the provision of public amenities as part of development proposals.
 - (h) To encourage land assembly and the most desirable use of land in accordance with the Downtown Plan for Gaithersburg.
- (Ord. No. O-13-96, 12-16-96)

Sec. 24-160F.2. Uses allowed.

(a) *Permitted uses.* All uses listed as permitted and not as special exceptions in all zoning districts, except:

- (1) Automobile and truck repair and services.
- (2) Automobile and truck body repair shops.
- (3) Automobile and truck sales.
- (4) Landscaping and excavation contractor business involving the use of heavy trucks and equipment.
- (5) Pawn shops.
- (6) Tattoo parlors.
- (7) Telecommunications facilities located entirely within an existing structure, subject to the requirements of section 24-167A(C)(1).
- (8) Those uses listed in subsection (b) of this section.

(b) *Special exception uses.*

- (1) Boarding homes.
 - (2) Group residential facilities operated by a nonprofit or public entity.
 - (3) Laboratories, provided such use meets all federal, state and local safety regulations.
 - (4) Consignment shops.
- (Ord. No. O-13-96, 12-16-96; Ord. No. O-21-97, 11-17-97)

Sec. 24-160F.3. Minimum locational requirements.

No land shall be classified in the central business district unless the land is within the following described area:

Beginning at a point being the intersection of the north right-of-way line of Brooks Avenue with the west right-of-way line of Park Avenue, said point being further described as the southeast corner of Lot 1, Block 7, Russell and Brookes Addition to Gaithersburg; thence

- 1. Running in a northeasterly direction with the west right-of-way line of Park Avenue, Extended, to intersect the east right-of-way line of North Summit Avenue; thence
- 2. Running in a northerly direction with the east right-of-way line of North Summit Avenue to intersect with the south right-of-way line of Girard Street; thence



Gaithersburg
A CHARACTER COUNTS! CITY

September 30, 2003

Karey Major, Law Section
The Gaithersburg Gazette
P.O. Caller 6006
Gaithersburg, Maryland 20884

Dear Karey:

Please publish the following legal advertisement in the **October 1 and 15, 2003**, issues of the *Gaithersburg Gazette*.

Sincerely,

Trudy W. Schwarz
Community Planning Director

ASSIGN CODE: PHZ-295(o)

NOTICE OF PUBLIC HEARING

The Mayor and Council and Planning Commission of the City of Gaithersburg will conduct a joint public hearing on Z-295(o), filed by James Clifford, Sr., Esq., for Matthew & Maria Glinsmann, on

**MONDAY
OCTOBER 20, 2003
AT 7:30 P.M.**

or as soon thereafter as this matter can be heard in the Council Chambers at 31 South Summit Avenue, Gaithersburg, Maryland.

This application requests rezoning of 15,439 square feet of land, currently known as Part of Lot 12 & Part of Lot 13, Block 1, Russell and Brookes Addition, located at 12 Russell Avenue, in the City of Gaithersburg, from the existing R-90 (Medium Density Residential) Zone to the CBD (Central Business District) Zone, under the Optional Method of rezoning, in accordance with §24-196 (map amendments) and §24-198 (optional method) of the City Code.

Further information may be obtained from the Planning and Code Administration Department at City Hall, 31 South Summit Avenue, between the hours of 8 a.m. and 5 p.m., Monday through Friday.

Trudy Schwarz, Community Planning Director
Planning and Code Administration
mg

Acct# 133649 City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
301-258-6300 • FAX 301-948-6149 • TTY 301-258-6430 • cityhall@ci.gaithersburg.md.us • www.ci.gaithersburg.md.us

MAYOR
Sidney A. Katz

COUNCIL MEMBERS
Stanley J. Alster
Geraldine E. Edens
Henry F. Marraffa, Jr.
John B. Schlichting
Ann T. Somersel

CITY MANAGER
David B. Humpton





Gaithersburg
A CHARACTER COUNTS! CITY

CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland 20877
Telephone: 301-258-6330

NOTICE OF JOINT PUBLIC HEARING

The City of Gaithersburg Mayor and Council and Planning Commission will conduct a public hearing at the time and place noted below.

Meeting: MAYOR AND CITY COUNCIL
Application Type: ZONING MAP AMENDMENT
File Number: Z-295(o)
Location: 12 RUSSELL AVENUE
Applicant: MATTHEW & MARIA GLINSMANN
Current Zoning: R-90 (MEDIUM DENSITY RESIDENTIAL) ZONE
Requested Zone: CBD (CENTRAL BUSINESS DISTRICT) ZONE
Day/ Date/Time: OCTOBER 20, 2003
Place: COUNCIL CHAMBERS, GAITHERSBURG CITY HALL
31 SOUTH SUMMIT AVENUE

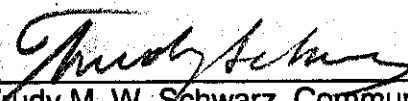
IMPORTANT

This is a proposal to rezone 15,439 square feet of land, currently known as part of Lot 12 and part of Lot 13, Block 1, Russell and Brookes Addition, located at 12 Russell Avenue, in the City of Gaithersburg, from the existing R-90 (Medium Density Residential) Zone to the CBD (Central Business District) Zone, under the Optional Method of rezoning, in accordance with §24-196 (map amendments) and §24-198 (optional method) of the City Code. This is a joint public hearing which allows the public an opportunity to participate and comment on the request. Contact the Planning and Code Administration City Planner (listed below) at (301) 258-6330 if you should have any questions and/or to learn more about this process and your ability to offer testimony and input.

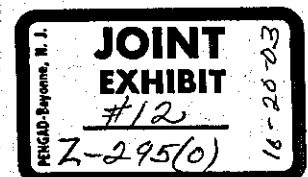
Joint Mayor and City Council & Planning Commission meetings can be viewed live on Gaithersburg Cable Television Channel 13, and at anytime (on demand) two weeks after the public hearing via the Internet and Web TV at <http://www.ci.gaithersburg.md.us>.

CITY OF GAITHERSBURG

By:


Trudy M. W. Schwarz, Community Planning Director
Planning and Code Administration

SEE LOCATION MAP ON REVERSE SIDE



NOTICES SENT THIS 3rd DAY OF OCTOBER, 2003, TO:

APPLICANT AND INTERESTED PARTIES

(A list of interested parties and agencies is available in the file in the Planning and Code Administration.)

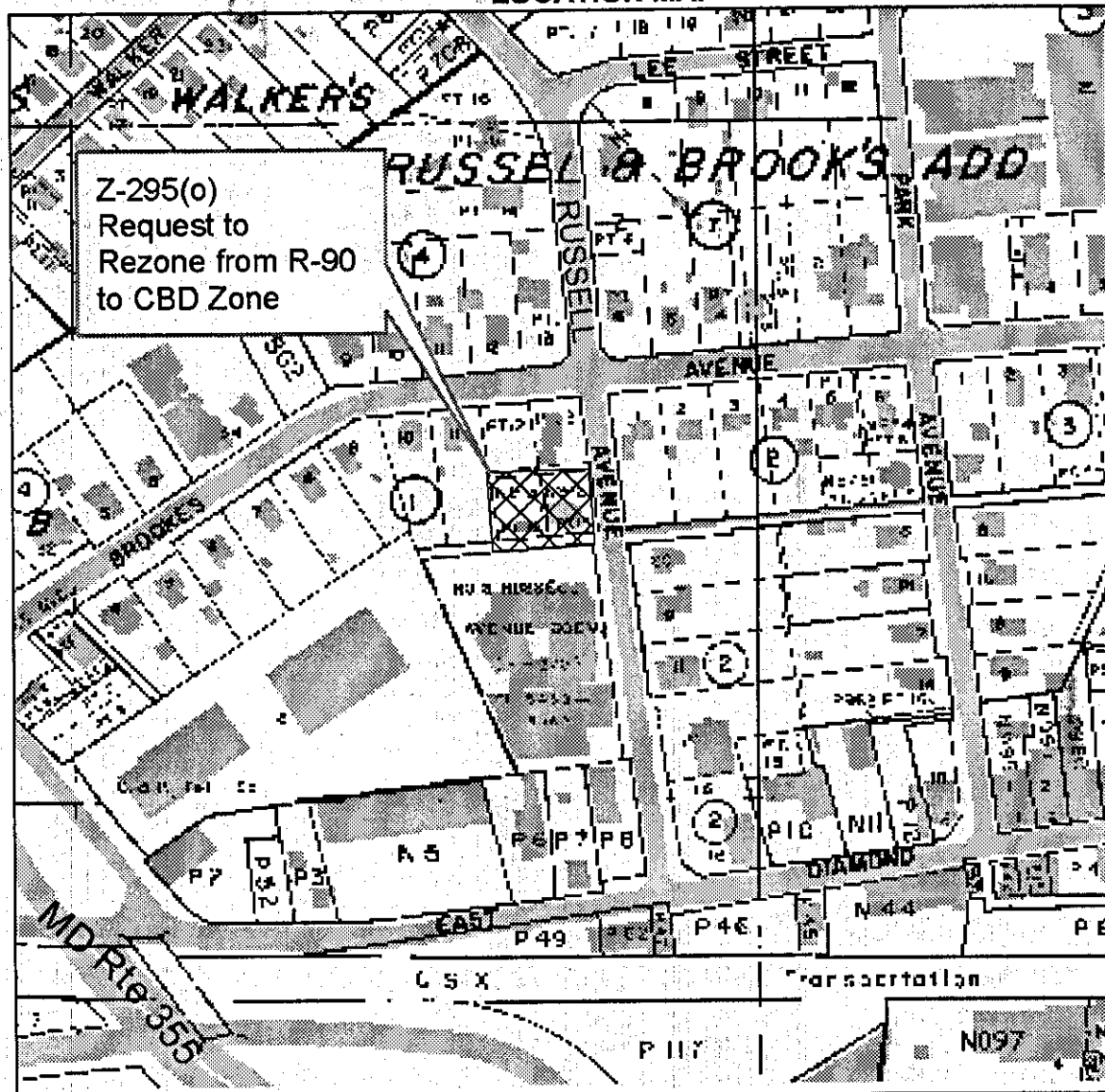
MAYOR AND COUNCIL

PLANNING COMMISSION

CITY STAFF

David B. Humpton, City Manager
Frederick J. Felton, Assistant City Manager
Tony Tomasello, Assistant City Manager
Stanley D. Abrams, City Attorney
Mary Beth Smith, Public Information Director
Doris Stokes, Administrative Assistant
Jeff Baldwin, City Web Administrator (via email)

LOCATION MAP



**CLIFFORD, DEBELIUS, CRAWFORD,
BONIFANT & FITZPATRICK, CHTD.**

ATTORNEYS AT LAW

Olde Towne Professional Park
320 East Diamond Avenue
Gaithersburg, Maryland 20877-3016

James R. Clifford, Sr. (MD, VA)
James J. Debelius (MD)
Gary L. Crawford (MD, DC)
James A. Bonifant (MD)
E. Joseph Fitzpatrick, Jr. (MD, DC, TN)

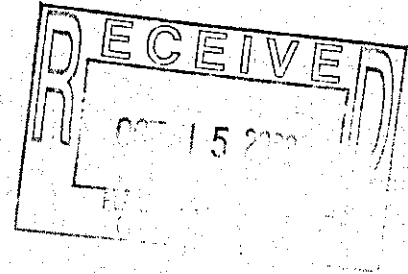
(301) 840-2232

fax (301) 975-9829

John W. Debelius (1926-1984)

October 14, 2003

Blanche Keller
Chair of the Planning Commission for the
City of Gaithersburg
11 South Summit Avenue
Gaithersburg, MD 20877



Re: Matthew and Maria Glinsmann
12 Russell Avenue
Gaithersburg, MD

Dear Ms. Keller:

Recently my client filed an application to rezone the above referenced property. Along with that rezoning package was an application for site plan approval for a project that incorporates an existing historic structure on the subject site, with a new carriage house to be constructed on the rear of the property. The subject property was titled in name of Burdette family for more than 50 years and the residence was severely neglected over the last decade. The applicants, Matthew and Maria Glinsmann, are a husband and wife legal firm who desire to renovate and utilize the historic structure for their law office. The carriage house to be constructed would be a residential structure for Mrs. Glinsmann's mother.

It is the applicant's desire to honor representations made to adjoining neighbors to preserve the residential appearance of the property as viewed from Russell Avenue. In order to retain the residential appearance, we request a waiver regarding the width of the driveway that provides ingress and egress to the subject site. The site plan reflects that the parking lot will be established to the rear of the property in order to retain the residential appearance from the street. In conjunction therewith, we would like to minimize the width of the driveway so that it would be sixteen (16) feet wide versus the twenty (20) feet required for a commercial entrance. It is our understanding that under Article XI, Sec. 24-222A of the Municipal Zoning Code for the City of Gaithersburg, the Planning Commission can approve the waiver of any requirement set forth in said Article

“(1) The planning commission may waive any requirement of this article, in whole or in part, which is not necessary to accomplish the objectives of this article. The waiver may be granted, after a public meeting has been conducted, only upon a



finding by the planning commission that such a waiver would not be detrimental to the public health, safety and general welfare. In conjunction with the granting of any waiver, the planning commission may attach such conditions or safeguards as it deems necessary to protect and enhance the public health, safety and welfare."

This waiver can be granted so long as there is no detriment to the public health, safety or general welfare. Because the uses of this site will be restricted by the requested CBD Zone, we see no safety issue with a narrower entrance, especially considering the minimal traffic flow generated by the proposed allowed uses.

In addition to the above waiver request, the applicants are also asking for a parking waiver for four (4) of the required fourteen (14) parking spaces on the subject site. Although this waiver would not be needed until such time as the carriage house is converted from residential to office, the applicant and City staff felt that it would be better to ask for these waivers at this time. The site plan shows ten (10) parking spaces will be created on site to the rear of the existing residence. These spaces are sufficient for the present intended use of the combined residential/office facility. However, at such time as the owners decide to utilize the carriage house as an office, the additional four spaces would be required. Fortunately the property sits on Russell Avenue, where on-street parking is available in front of the subject property. All four spaces that cannot be provided on site, are available along the street frontage of the subject property. Although the street parking presently exists, it is not utilized either during the day or in the evening.

This parking waiver can be authorized by the City Planning Commission under the same provisions of Article XI, Section 24-222A as stated above. Thank you for your consideration of this matter.

Sincerely,

CLIFFORD, DEBELIUS, CRAWFORD,
BONIFANT & FITZPATRICK, CHTD

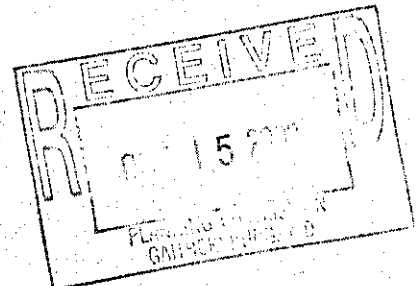


JAMES R. CLIFFORD, SR., ESQ.

JRC/dlh

cc: Mayor & City Council

G:\DATA\DCD\REALEST\Glinsmann Russell Avenue\Schwartz 10 14 03.wpd



Notes:

Topography shown is one-foot contour interval as prepared by Thomas A. Macklow, Professional Land Surveyor from an actual field survey.

Francis P. &
W.L. Corrigan

#21 Brookes
Ave.

Lot 11

①

**R-90
ZONE**

Freeman S. &
N.P. Sharp

**R-90
ZONE**

Part of
12

①

#16 Russell
Ave.

Part of
18

②

Lot 1

②

**R-90
ZONE**

STORMWATER MANAGEMENT:
Underground water quality devices to be installed within parking area and/or open space area for treatment of parking lot and rooftop runoff / system to be connected to existing public storm drain.

All new paved areas to be curb & gutter as necessary for control of stormwater.

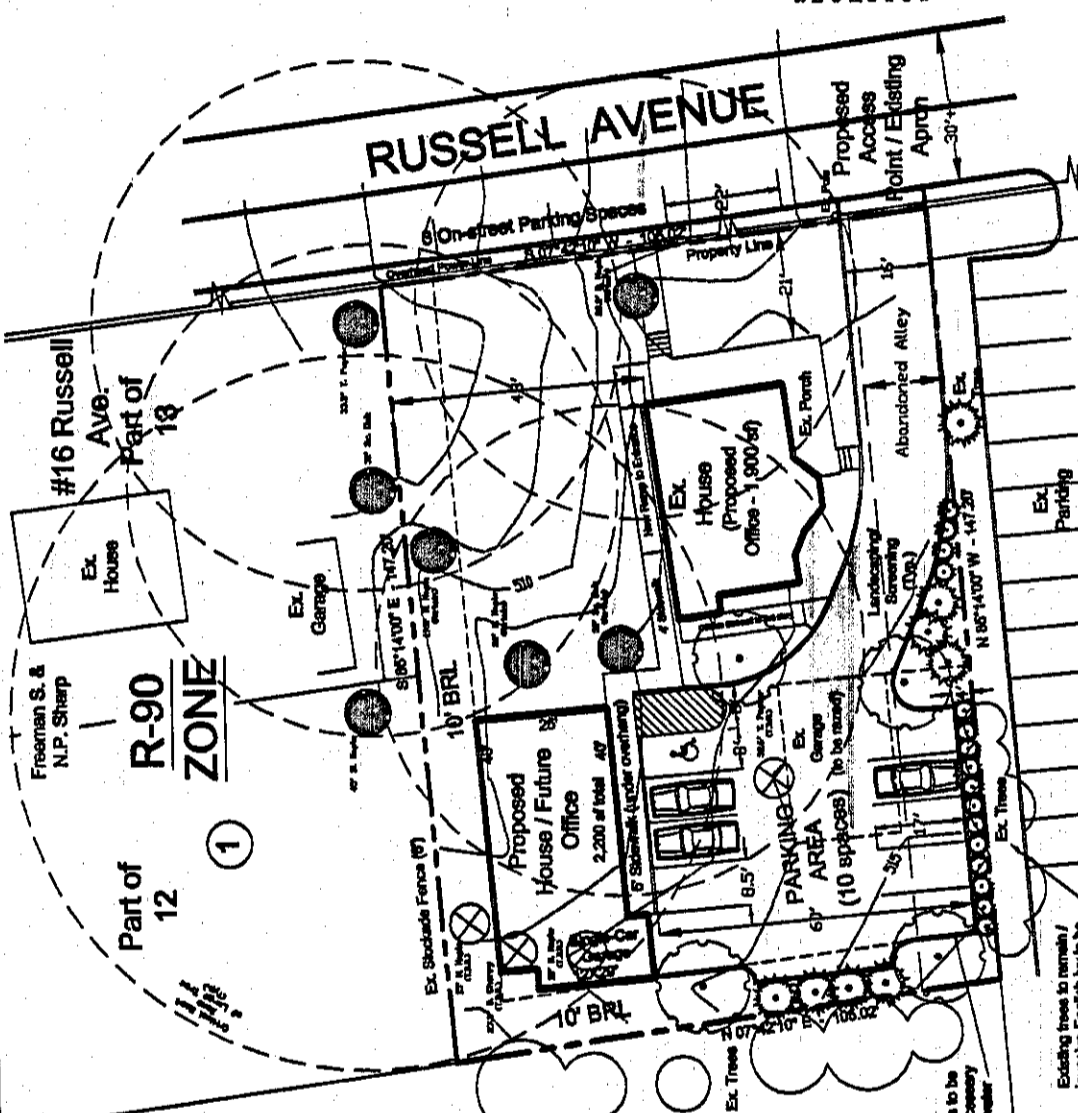
Existing trees to remain / Invasive English Ivy to be removed for protection of proposed landscaping.

Lot 14

No. 8 Russell
Avenue Condo.

CBD

RUSSELL AVENUE

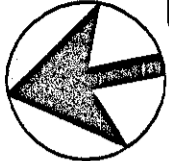


**SCHEMATIC DEVELOPMENT PLAN
12 RUSSELL AVENUE**

City of Gaithersburg, Maryland



Beanning & Associates, Inc.
Land Planning Consultants
8933 Shady Grove Court
Gaithersburg, MD 20877
(301) 948-0246

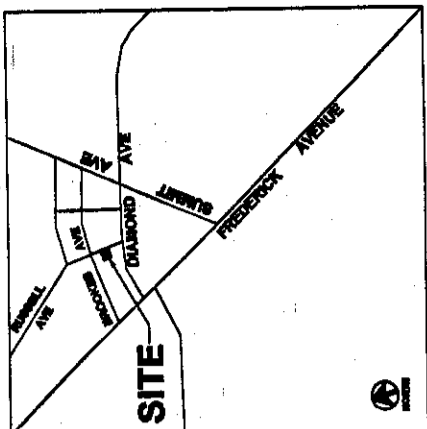


date: August 2003
Revised 10/13/08

scale: 1"=20'

PREPARED FOR:
MATTHEW & MARIA GLINSMANN
POTOMAC VALLEY BANK BUILDING
702 RUSSELL AVENUE, SUITE 312
GAITHERSBURG, MARYLAND 20877
301-972-8643

VICINITY MAP
SCALE: 1" = 2,000'



GENERAL NOTES:

1. Area of Property - 15,439 sf (includes adjacent abandoned public alley)
2. Existing Zoning: R-90
3. Existing Use: Single-family Residence (vacant)
4. Proposed Zoning: CBD
5. Proposed Use: Professional Office
6. Total Gross Floor Area Shown (two buildings): 4,100 sf
7. Number of Parking Spaces Required: 14 spaces (1 sp/300 sf of office space)
8. Number of Off-Street Spaces Shown - 10 (waiver needed)
9. Height of Proposed Building (mean height between eaves and ridge) - 18'-8"
10. Height of Existing Building: 25'-8" ±
11. Total Lot Coverage - 3,300 sf (21.5%)
12. Total Impervious Area - 8,000 sf (52%)
13. Total Area of Disturbance - 8,800 sf
14. Parking area lighting and other outdoor lighting to comply with "dark skies" lighting requirements.
15. Afforestation requirement and/or tree replacement requirements to be met with on-site landscaping.

PARKING NOTES:

1. Number of off-street parking spaces required - 14
2. Number of off-street spaces shown - 10 (includes 1 garage space)
3. Number of accessible spaces required - 1
4. Number of accessible spaces shown - 1 (van accessible)
5. Approximate number of on-street spaces available adjacent to site - 3

Tree Preservation Notes:

- The following tree (s) are expected to be removed upon development of this site -
1. Tulip Poplar (32.0" dbh / near garage)
 2. Norway Maple (10" dbh - northwest corner of site)
 3. Black Cherry (27" dbh - northwest corner of site)
 4. Norway Spruce (15" dbh - line to east / northwest corner of site)
- All other trees shown are expected to be retained. Exact measures of tree preservation and protection (tree protection fencing, root pruning, etc.) to be determined at first site tree survey.